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REOPENING OF ASSESSMENT

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SECTION 147: INCOME ESCAPING ASSESSMENT

OLD REGIME

Income escaping assessment.

147. If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year) :

NEW REGIME

Income escaping assessment.

147. If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may, subject to the provisions of sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year).

SECTION 147: INCOME ESCAPING ASSESSMENT

OLD REGIME

Provided that where an assessment under sub-section (3) of section 143 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment, for that assessment year:

Provided further that nothing contained in the first proviso shall apply in a case where any income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment for any assessment year:

Provided also that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matters of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.

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Explanation.—For the purposes of assessment or reassessment or recomputation under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, **irrespective of the fact that the provisions of section 148A have not been complied with.**

SECTION 147: INCOME ESCAPING ASSESSMENT

OLD REGIME

Explanation 1.—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

Explanation 2.—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely :—

(a) where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax ;

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(b) where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has **understated the income or has claimed excessive loss, deduction, allowance or relief in the return**

(*ba*) where the assessee has failed to furnish a report in respect of any international transaction which he was so required under section 92E;

(c) where an assessment has been made, but—

(*i*) income chargeable to tax has been underassessed ; or

(*ii*) such income has been assessed at too low a rate ; or

(*iii*) such income has been made the subject of excessive relief under this Act ; or

(*iv*) excessive loss or depreciation allowance or any other allowance under this Act has been computed;

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- (ca) where a return of income has not been furnished by the assessee or a return of income has been furnished by him and on the basis of information or document received from the prescribed income-tax authority, under sub-section (2) of section 133C, it is noticed by the Assessing Officer that the income of the assessee exceeds the maximum amount not chargeable to tax, or as the case may be, the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;
- (d) where a person is found to have any asset (including financial interest in any entity) located outside India.
- *Explanation 3.*—For the purpose of assessment or reassessment under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, notwithstanding that the reasons for such issue have not been included in the reasons recorded under sub-section (2) of section 148.
- *Explanation 4.*—For the removal of doubts, it is hereby clarified that the provisions of this section, as amended by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012.

NEW REGIME



148: ISSUE OF NOTICE WHERE INCOME HAS ESCAPED ASSESSMENT

OLD REGIME

- **148.** (1) Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period, as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139 :

NEW REGIME

- **148.** Before making the assessment, reassessment or recomputation under section 147, **and subject to the provisions of section 148A**, the Assessing Officer shall serve on the assessee a notice, **along with a copy of the order passed, if required, under clause (d) of section 148A**, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:



148: ISSUE OF NOTICE WHERE INCOME HAS ESCAPED ASSESSMENT

OLD REGIME

Provided that in a case—

(a) where a return has been furnished during the period commencing on the 1st day of October, 1991 and ending on the 30th day of September, 2005 in response to a notice served under this section, and

(b) subsequently a notice has been served under sub-section (2) of section 143 after the expiry of twelve months specified in the proviso to sub-section (2) of section 143, as it stood immediately before the amendment of said sub-section by the Finance Act, 2002 (20 of 2002) but before the expiry of the time limit for making the assessment, re-assessment or recomputation as specified in sub-section (2) of section 153, every such notice referred to in this clause shall be deemed to be a valid notice;

NEW REGIME

Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the **specified authority** to issue such notice.

Provided further that no such approval shall be required where the Assessing Officer, with the prior approval of the specified authority, has passed an order under clause (d) of section 148A to the effect that it is a fit case to issue a notice under this section. **[Inserted by the Finance Act, 2022, w.e.f. 1-4-2022.]**

Explanation 1.—For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment **means**,—

- (i) any information **[***]** in the case of the assessee for the relevant assessment year in accordance with the **risk management strategy formulated** by the Board from time to time; **[word “flagged” omitted, ibid].**

148: ISSUE OF NOTICE WHERE INCOME HAS ESCAPED ASSESSMENT

OLD REGIME

Provided further that in a case—

(a) where a return has been furnished during the period commencing on the 1st day of October, 1991 and ending on the 30th day of September, 2005, in response to a notice served under this section, and

(b) subsequently a notice has been served under clause (i) of sub-section (2) of section 143 after the expiry of twelve months specified in the proviso to clause (i) of sub-section (2) of section 143, but before the expiry of the time limit for making the assessment, reassessment or recomputation as specified in sub-section (2) of section 153, every such notice referred to in this clause shall be deemed to be a valid notice.

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[(ii) any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act; or

(iii) any information received under an agreement referred to in section 90 or section 90A of the Act; or

(iv) any information made available to the Assessing Officer under the scheme notified under section 135A; or

(v) any information which requires action in consequence of the order of a Tribunal or a Court.]

[Clauses (ii) to (v) substituted for clause (ii) by the Finance Act, 2022, w.e.f. 1-4-2022]

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Explanation.—For the removal of doubts, it is hereby declared that nothing contained in the first proviso or the second proviso shall apply to any return which has been furnished on or after the 1st day of October, 2005 in response to a notice served under this section.

(2) The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.

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Explanation 2.—For the purposes of this section, where,—

- (i) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assessee; or
- (ii) a survey is conducted under section 133A, other than under sub-section (2A) [***] of that section, on or after the 1st day of April, 2021, in the case of the assessee; or [Words “or sub-section (5)” omitted, *ibid*].
- (iii) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned under section 132 or under section 132A in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or
- (iv) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee,

148: ISSUE OF NOTICE WHERE INCOME HAS ESCAPED ASSESSMENT

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the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee [where] the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

[substituted for “for the three assessment years immediately preceding the assessment year relevant to the previous year in which”, *ibid.*, w.r.e.f.1-4-2021]

Explanation 3.—For the purposes of this section, specified authority means the specified authority referred to in section 151.

SECTION 119 OF THE INCOME-TAX ACT, 1961 - CENTRAL BOARD OF DIRECT TAXES - INSTRUCTION TO SUBORDINATE AUTHORITIES - INSTRUCTION REGARDING UPLOADING OF INFORMATION ON VRU FUNCTIONALITY ON INSIGHT PORTAL FOR IMPLEMENTATION OF RISK MANAGEMENT STRATEGY FOR ISSUE OF NOTICE UNDER SECTION 148 [INSTRUCTION F. NO. 225/135/2021/ITA-II, DATED 10-12-2021]

Kindly refer to the above.

2. As per the amended provisions of the section 148 of the Income-tax Act, 1961 ('the Act'), the information which has escaped assessment has been defined to include the two categories of information, *i.e.*, (i) the information which is flagged in accordance with the risk management strategy formulated by the Board; and (ii) final audit objection raised by the C&AG.

3. For effective implementation of risk management strategy, the Central Board of Direct Taxes (Board), in exercise of its powers under section 119 of the Act, directs that the Assessing Officers shall identify the following categories of information pertaining to Assessment Year 2015-16 and Assessment Year 2018-19, which may require action under section 148 of the Act, for uploading on the Verification Report Upload (VRU) functionality on Insight portal:


- (i) Information from any other Government Agency/Law Enforcement Agency
- (ii) Information arising out of Internal Audit objection, which requires action u/s 148 of the Act
- (iii) Information received from any Income-tax Authority including the assessing officer himself or herself

[INSTRUCTION F. NO. 225/135/2021/ITA-II, DATED 10-12-2021]

Continued...

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- (iv) Information arising out of search or survey action
 - (v) Information arising out of FT&TR references
 - (vi) Information arising out of any order of court, appellate order, order of NCLT and/or order u/s 263/264 of the Act, having impact on income in the assessee's case or in the case of any other assessee.
 - (vii) Cases involving addition in any assessment year on a recurring issue of law or fact:
 - (a) exceeding Rs. 25 lakhs in eight metro charges at Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad, Kolkata, Mumbai and Pune while at other charges, quantum of addition should exceed Rs. 10 lakhs;
 - (b) exceeding Rs. 10 crore in transfer pricing cases.

and where such an addition:

1. has become final as no further appeal has been filed against the assessment order; or
 2. has been confirmed at any stage of appellate process in favor of revenue and assessee has not filed further appeal; or
 3. has been confirmed at the 1st stage of appeal in favor of revenue or subsequently; even if further appeal of assessee is pending, against such order.
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[INSTRUCTION F. NO. 225/135/2021/ITA-II, DATED 10-12-2021]

Continued...

5. As per the provisions of section 149(1)(b) of the Act, in specific cases where the Assessing Officer has in his possession evidence which reveal that the income escaping assessment, represented in the form of asset, amounts to or is likely to amount to fifty lakh rupees or more, notice can be issued beyond the period of three years but not beyond the period of ten years from the end of the relevant assessment year. Further, the notice under section 148 of the Act cannot be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time limit prescribed under the provisions of clause (b), as they stood immediately before the proposed amendment. As per explanation provided to section 149 of the Act, the term "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.


5.1 In view of the above, it is directed that the information pertaining to Assessment Year 2015-16, which requires action u/s 148 of the Act shall be identified and uploaded on the VRU functionality on insight portal only as per the provisions of section 149(1)(b) of the Act.

6. The above exercise of identifying and uploading the information along with the underlying documents in the above categories of cases must be completed by 20-12-2021.

7. These Instructions shall be applicable to the Jurisdictional Assessing Officers and Assessing Officers of Central Charges and International Taxation.

8. The above Instructions may be brought to the notice of the officers concerned under your region.

9. This issues with the approval of Chairman, CBDT.



148A: CONDUCTING INQUIRY, PROVIDING OPPORTUNITY BEFORE ISSUE OF NOTICE UNDER SECTION 148.

148A. The Assessing Officer shall, before issuing any notice under section 148,—

(a) **conduct any enquiry**, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;

(b) **provide an opportunity of being heard** to the assessee, **[***]**, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of **information** which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and **results of enquiry conducted**, if any, as per clause (a);

[Words “with the prior approval of specified authority,” omitted by the Finance Act,2022, w.e.f.1-4-2022]

148A: CONDUCTING INQUIRY, PROVIDING OPPORTUNITY BEFORE ISSUE OF NOTICE UNDER SECTION 148.

(c) **consider the reply** of assessee furnished, if any, in response to the show-cause notice referred to in clause (b);

(d) **decide**, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires:

Provided that the provisions of this section shall not apply in a case where,—

(a) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of the assessee on or after the 1st day of April, 2021;
or

148A: CONDUCTING INQUIRY, PROVIDING OPPORTUNITY BEFORE ISSUE OF NOTICE UNDER SECTION 148.

(b) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any money, bullion, jewellery or other valuable article or thing, seized in a search under section 132 or requisitioned under section 132A, in the case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or

(c) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under section 132 or requisitioned under section 132A, in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, **[relate to, the assessee; or**

(d) The Assessing Officer has received any information under the scheme notified under section 135A pertaining to income chargeable to tax escaping assessment for any assessment year in the case of the assessee] [Substituted for “relate to, the assessee.” by the Finance Act, 2022, w.e.f. 1-4-2022]

Explanation.—For the purposes of this section, specified authority means the specified authority referred to in section 151.



[148B: PRIOR APPROVAL FOR ASSESSMENT, REASSESSMENT OR RECOMPUTATION IN CERTAIN CASES.]

No order of assessment or reassessment or recomputation under this Act shall be passed by an Assessing Officer below the rank of Joint Commissioner, in respect of an of an assessment year to which clause (i) or clause (ii) or clause (iii) or clause (iv) of Explanation 2 to section 148 apply except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director.] (Inserted, *ibid*)

149: TIME LIMIT FOR NOTICE

OLD REGIME

(1) No notice under section 148 shall be issued for the relevant assessment year,—

(a) if four years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b) or clause (c);

(b) if four years, but not more than six years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year;

(c) if four years, but not more than sixteen years, have elapsed from the end of the relevant assessment year unless the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment.

Explanation.—In determining income chargeable to tax which has escaped assessment for the purposes of this sub-section, the provisions of *Explanation 2* of section 147 shall apply as they apply for the purposes of that section.

NEW REGIME

149. (1) No notice under section 148 shall be issued for the relevant assessment year,—

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

[(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of -

- (i) asset;
- (ii) expenditure in respect of a transaction or in relation to an event or occasion; or
- (iii) an entry or entries in the books of accounts,

149: TIME LIMIT FOR NOTICE

OLD REGIME

(2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151.

(3) If the person on whom a notice under section 148 is to be served is a person treated as the agent of a non-resident under section 163 and the assessment, reassessment or recomputation to be made in pursuance of the notice is to be made on him as the agent of such non-resident, the notice shall not be issued after the expiry of a period of six years from the end of the relevant assessment year.

Explanation.—For the removal of doubts, it is hereby clarified that the provisions of sub-sections (1) and (3), as amended by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012.

NEW REGIME

which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more]

[Substituted by the Finance Act, 2022 w.e.f 1-4-2022. prior to its substitution, clause (b) read as under:

“(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year:”]

149: TIME LIMIT FOR NOTICE

OLD REGIME

NEW REGIME

Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if [a notice under section 148 or section 153A or section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section or section 153A or section 153C, as the case may be], (Substituted for “ such notice could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section” by the Finance Act,2022, w.r.e.f. 1-4-2021) as they stood immediately before the commencement of Finance Act 2021:

149: TIME LIMIT FOR NOTICE

OLD REGIME

NEW REGIME

Provided further that the provisions of this sub-section shall not apply in a case, where a notice under section 153A, or section 153C read with section 153A, is required to be issued in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or before the 31st day of March, 2021:

Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded:

Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A is less than seven days, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly.

149: TIME LIMIT FOR NOTICE

OLD REGIME

NEW REGIME

Explanation.—For the purposes of clause (b) of this sub-section, "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account. .

[(1A) Notwithstanding anything contained in sub-section (1), where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion of the value referred to in clause (b) of sub-section (1), has escaped the assessment and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, in more than one previous years relevant to the assessment years within the period referred to in clause (b) of sub-section (1), a notice under section 148 shall be issued for every such assessment year for assessment, reassessment or recomputation, as the case may be] (Inserted by the Finance Act, 2022, w.e.f. 1-4-2022.)

(2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151.

151: SANCTION FOR ISSUE OF NOTICE

OLD REGIME

151: (1) No notice shall be issued under section 148 by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

(2) In a case other than a case falling under sub-section (1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.

(3) For the purposes of sub-section (1) and sub-section (2), the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the Joint Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself.

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151. Specified authority for the purposes of section 148 and section 148A shall be,—

- (i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;
- (ii) Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year.